HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 22, 2017
85th Legislature, Number 78
The House convenes at 10 a.m.
Part Two

Forty-five bills are on the daily calendar for second-reading consideration today. Bills on the General State Calendar digested in Part Two of today's *Daily Floor Report* are listed on the following page.

Dwayne Bohac
Chairman
85(R) - 78

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Monday, May 22, 2017
85th Legislature, Number 78
Part 2

SUBJECT: Revising penalties for certain cruelty to animals offenses

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Hunter

SENATE VOTE: On final passage, May 3 — 24-7 (Bettencourt, Buckingham, Burton, Campbell, Creighton, Hancock, V. Taylor)

WITNESSES: *On House companion bill, HB 1357:*
For — David Alex, Criminal District Attorney, Tarrant County; Charles Jantzen, Harris County Constables Office, Pct. 5; Catherine McManus, City of Irving; Jessica Milligan, Harris County District Attorney's Office; Sandra Shelby, Humane Society of North Texas; Robyn Katz, Chris Kemper, Melinda Merck, Francesca Ortiz; (*Registered, but did not testify*: Jessica Anderson, Houston Police Department; Shelby Bobosky, Laura Donahue, and Mary Kahle, Texas Humane Legislation Network; Stacie Flowers, Texas Humane Legislation Network-East Texas Chapter; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Katija Gruene, Green Party of Texas; Micah Harmon, AJ Louderback, Ricky Scaman and Henry Trochesset, Sheriffs' Association of Texas; Ray Hunt, Houston Police Officers Union; Katie Jarl, The Humane Society of the United States; Noel Johnson, TMPA; James Jones, San Antonio Police Department; Nicole Jones, Austin Humane Society; Jesse Ozuna, City of Houston Mayor's Office; Tiana Sanford, Montgomery County District Attorney's Office; Arianna Smith, Combined Law Enforcement Associations of Texas; Gary Tittle, Dallas Police Department; Robert Trimble, THLN; Stephanie Womack, Harris County Constables, Pct. 5; Alicia L. Zander, Austin Pets Alive! Community Action; and 65 individuals)

Against — (*Registered, but did not testify*: Gib Lewis, Responsible Pet Owners Alliance; Darwin Hamilton)

BACKGROUND: Penal Code, sec. 42.092 makes cruelty to non-livestock animals a crime. The offense can be committed in numerous ways, including:

- torturing an animal or in a cruel manner killing or causing serious bodily injury to an animal;
- without the owner's effective consent, killing, poisoning, or causing serious bodily injury to an animal;
- failing unreasonably to provide food, water, care, or shelter for an animal;
- abandoning unreasonably an animal;
- transporting or confining an animal in a cruel manner;
- without the owner's effective consent, causing bodily injury to an animal;
- causing one animal to fight with another animal, if either animal is not a dog;
- using a live animal as a lure in dog race training or in dog coursing on a racetrack; or
- seriously overworking an animal.

The different types of offenses carry different penalties. Offenses are state jail felonies (180 days to two years in a state jail and an optional fine of up to $10,000) if they involve torturing an animal or cruelly killing or causing serious bodily injury to an animal; without an owner's effective consent killing, poisoning, or causing serious bodily injury to an animal; causing animals to fight; or using an animal as a live lure. These four types of cruelty to animals are third-degree felonies (two to 10 years in prison and an optional fine of up to $10,000) if the person has two previous convictions for any cruelty to animal offenses or two previous convictions for cruelty to livestock under Penal Code, sec. 49.02, or one previous conviction for cruelty to non-livestock animals and one previous conviction for cruelty to livestock.

DIGEST: SB 762 would revise the penalties for certain types of offenses for cruelty to non-livestock animals. First offenses relating to torturing, cruelly killing or causing serious bodily harm; or without an owner's consent poisoning, killing, or causing serious bodily injury to an animal would be increased from a state jail felony to a third-degree felony. Offenses would

be second-degree felonies (two to 20 years in prison and an optional fine of up to $10,000) if the person had a previous conviction under cruelty to animals relating to those same offenses, or causing animals to fight; using an animal as a live lure; or for cruelty to livestock animals.

First offenses for causing animals to fight and using an animal as a live lure would remain state jail felonies. Convictions for causing animals to fight or using an animal as a live lure would be third-degree felonies if the person had a previous conviction for cruelty to animals or for cruelty to livestock animals.

The bill would allow statements made at hearings relating to seizing a cruelly treated animal to be admissible in trials for cruelty to non-livestock and livestock animals.

The bill would take effect September 1, 2017, and would apply only to offenses committed on or after that date.

NOTES:

A companion bill, HB 1357 by Moody, was reported favorably by the House Criminal Jurisprudence Committee on April 10.

SUBJECT: Incentivizing school district contracts with charter schools

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Gooden, Koop, Meyer, VanDeaver

0 nays

2 absent — Dutton, K. King

SENATE VOTE: On final passage, May 4 — 31-0

WITNESSES: *On House companion bill, HB 3439:*
For — Susan Hull, Grand Prairie ISD, District-Charter Alliance; Ann Smisko, Raise Your Hand Texas; Scott Muri, Spring Branch ISD; Molly Weiner, Texas Aspires Foundation; Yasmin Bhatia, Uplift Education; Bryan Reed, YES Prep Public Schools; (*Registered, but did not testify*: Libby McCabe, Commit Partnership in Dallas; Louann Martinez, Dallas ISD; Julie Linn, District-Charter Alliance; Guy Sconzo, Fast Growth School Coalition; Priscilla Camacho, San Antonio Chamber of Commerce; Seth Rau, San Antonio ISD; Addie Gomez, Texans for Quality Public Charter Schools; Courtney Boswell, Texas Aspires; Miranda Goodsheller, Texas Association of Business; Casey McCreary, Texas Association of School Administrators; Dax Gonzalez, Texas Association of School Boards; Justin Yancy, Texas Business Leadership Council; Veronica Garcia, Texas Charter Schools Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Amanda List, Texas League of Community Charter Schools; Kyle Ward, Texas PTA; Colby Nichols, Texas Rural Education Association, Texas Association of Community Schools; Dee Carney, Texas School Alliance; Christy Rome, Texas School Coalition)

Against — Mark Wiggins, Association of Texas Professional Educators; Ted Melina Raab, Texas AFT; (*Registered, but did not testify*: Portia Bosse, Texas State Teachers Association)

On — John Fitzpatrick, Educate Texas/CFT; (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas; Paige Williams, Texas Classroom Teachers Association; Kara Belew, Von Byer, Leonardo Lopez, and Heather Mauze, Texas Education Agency)

BACKGROUND:

Several school districts have entered into agreements to share campuses with high-performing charter schools. Observers report that the agreements have fostered collaboration, made good use of underutilized school facilities, and boosted student achievement. They further report that funding and accountability incentives could increase the occurrence of these partnerships and benefit students in low-performing district campuses.

DIGEST:

SB 1882 would allow a public school whose performance was rated unacceptable by the Texas Education Agency to receive additional funding and avoid certain sanctions if it partnered with a high-performing charter school. A district campus would be eligible to receive those benefits only after receiving an overall performance rating of unacceptable for the school year before operation of the district campus under a contract with a charter school began.

Contract requirements. The bill would allow an open-enrollment charter school to contract with a school district only if the school's charter had not been previously revoked and the charter school had received acceptable academic and financial accountability ratings for two of the three preceding school years.

Before entering into a contract with the charter school governing body, a district would be required to consult with campus personnel regarding the contract provisions. The district campus also would need to be granted a campus charter.

A contract would be required to address student eligibility for enrollment and provide that any student residing in the preexisting attendance zone of the district campus would be admitted. For students who did not reside in the attendance zone, the contract would be required to establish enrollment preference first for other students residing in the district and then for students residing elsewhere.

Benefits. A school district that partnered with a charter school under the bill's provisions would be entitled to receive for each student in average daily attendance an amount equivalent to the difference between the amount of funding provided to charter schools under Education Code, sec. 12.106, and the amount to which the district would be entitled under Education Code, ch. 42, if the difference resulted in increased funding.

The commissioner could not impose a sanction or take action against the campus under certain Education Code requirements for a campus turnaround plan if the district campus failed to satisfy academic performance standards during the first two school years after the partnership was established. The overall performance rating received by the campus during those first two school years would not be included in calculating consecutive school years and would not be considered a break in consecutive school years under a campus turnaround plan. After the first two school years, a district campus could receive an exemption from a sanction or other action only with approval from the commissioner.

The commissioner would be required to implement the act only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate money, the commissioner may, but would not be required to, implement the act using other appropriations available for that purpose.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply beginning with the 2017-2018 school year.

NOTES: According to the Legislative Budget Board, the bill would have an estimated cost of $1.2 million beginning in fiscal 2020, $2.6 million in fiscal 2021, and $4.3 million in fiscal 2022. The cost estimates were based on the district campus receiving an additional $774 per student under the bill's funding provisions. Among the assumptions for the cost projections, the Texas Education Agency estimated that a total of 14 eligible campuses would enter into contract agreements in fiscal 2020, increasing by three campuses per subsequent year.

A companion bill, HB 3439 by Koop, was reported favorably from the House Public Education Committee on April 25 and placed on the General State Calendar for May 8.

SUBJECT: Changing certain TREC regulations; authorizing a Capitol Complex office

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Frullo, Geren, Hernandez, Herrero

0 nays

3 absent — Goldman, Paddie, S. Thompson

SENATE VOTE: On final passage, April 25 — 30-0-1 (Creighton present, not voting)

WITNESSES: *On House companion bill, HB 2534:*
For — Abby Lee, Texas Association of Realtors; (*Registered, but did not testify*: Vicki Fullerton, Daniel Gonzalez, and Julia Parenteau, Texas Association of Realtors)

Against — None

On — Bill Jones, Douglas Oldmixon, and Avis Wukasch, Texas Real Estate Commission

BACKGROUND: **Advertisements.** Occupations Code, sec. 1101.652 governs the conditions under which the Texas Real Estate Commission (TREC) may suspend or revoke a real estate license. Sec. 1101.652(b)(23) authorizes suspension or revocation if a license holder publishes an advertisement that:

- misleads or is likely to deceive the public;
- tends to create a misleading impression; or
- fails to identify the person publishing the advertisement as a licensed broker or agent.

Remittance. Sec. 1105.003(f) requires TREC to remit $750,000 annually to the general revenue fund to maintain its status as a self-directed, semi-independent agency.

Observers have noted a need for TREC to address various issues related to administration of real estate brokerage in Texas, including advertising, wholesale brokers, and commission funds. Interested parties have called for clarifying certain disclosures and penalties and allowing TREC to maintain a building in the Capitol Complex.

DIGEST:

CSSB 2212 would make various changes to the administrative procedures and regulations enforced by the Texas Real Estate Commission (TREC).

Conveyance of option or interest in real property. The bill would allow a person to sell an option or assign interest in a contract to purchase real property only if the person did not use the option or contract to engage in real estate brokerage and disclosed to potential buyers:

- the nature of the equitable interest; and
- that the person was selling only an option or assignment of interest in a contract, and did not have legal title to the real property.

Selling or assigning an option or interest in a contract to purchase real property without disclosing the nature of that interest would constitute real estate brokerage.

Advertisements. The bill would authorize the TREC to suspend or revoke a real estate license if the license holder published an advertisement that implied that a sales agent was responsible for the operation of the broker's real estate business or failed to identify the name of the broker for whom the license holder acted. The bill would remove the authority of TREC to suspend or revoke the license of a person who published an advertisement that failed to identify the publisher as a licensed broker or agent.

The bill would prohibit TREC from making a rule that required advertisements to include the term "broker," "agent," or a similar designation, a reference to the commission, or a person's license number.

Remittance. The bill would change the amount TREC is required to remit to the general revenue fund annually to equal $750,000 minus the cost to construct or maintain a building in the Capitol Complex. This change would apply beginning September 1, 2019, and ending September 1,

2029.

The bill would allow TREC to enter into a ground lease with the Texas Facilities Commission for the location of a building at 203 West Martin Luther King, Jr. Boulevard ("Parking Lot 19").

The bill would take effect September 1, 2017.

NOTES:

CSSB 2212 differs from the Senate-passed version by including authorization for a ground lease in the Capitol Complex and changing TREC's required annual remittance to be offset by the cost of construction and maintenance of a Capitol Complex building.

A companion bill, HB 2534 by Kuempel, was reported favorably from the House Licensing and Administrative Procedures Committee on April 27.

SUBJECT: Authorizing writs of mandamus against certain judges

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Smithee, Farrar, Gutierrez, Laubenberg, Neave, Rinaldi, Schofield

0 nays

2 absent — Hernandez, Murr

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 1480*:
For — Kelly Ausley-Flores, Texas Family Law Foundation; (*Registered, but did not testify*: Amy Bresnen and Steve Bresnen, Texas Family Law Foundation)

Against — None

BACKGROUND: Government Code, sec. 22.221 allows courts of appeals or a justice on a court of appeals to issue a writ of mandamus against a district judge, county court judge, or a district court judge serving as magistrate in a court of inquiry. A writ of mandamus is an extraordinary form of interlocutory appeal that directs a judge to correct a mistaken ruling.

Some have called for other types of judges to be subject to these writs of mandamus as well.

DIGEST: CSSB 1233 would add statutory county, statutory probate county, and associate family law judges in county or district courts to the list of judges against whom a court of appeals could issue a writ of mandamus.

The bill would take effect September 1, 2017, and would apply only to a suit or a proceeding seeking a writ of mandamus filed on or after that date.

NOTES: CSSB 1233 differs from the Senate-engrossed version of the bill in that

the committee substitute would extend the writs to statutory county and probate court judges.

A companion bill, HB 1480 by S. Thompson, was approved by the House on May 9 and referred to the Senate Committee on Administration.

SUBJECT: Modifying administrative procedures for contested cases

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Cook, Giddings, Craddick, Farrar, Geren, Guillen, K. King, Kuempel, Meyer, Oliveira, Paddie, E. Rodriguez, Smithee

0 nays

SENATE VOTE: On final passage, May 2 — 31-0

WITNESSES: No public hearing

BACKGROUND: Government Code, sec. 2001.003 defines a "contested case" as a proceeding, including a ratemaking or licensing proceeding, in which legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing.

Notice required. Sec. 2001.051 entitles each party in a contested case to notice and an opportunity for hearing. Sec. 2001.052(4) requires notice to include a short statement of the factual matters asserted.

Sec. 2001.142(a) requires a state agency to notify each party to a contested case of any agency decision or order either personally or by contacting the party's attorney by mail, e-mail, or telecopier.

Motion for rehearing. Sec. 2001.142(c) establishes that if a party proves that the party did not receive notice or gain knowledge of a state agency decision or order within 14 days of the decision or order being signed, the party may submit a sworn motion for a revised period for rehearing. If granted, the period begins on the day the party receives notice or acquires knowledge of the decision or order, which may not be more than 90 days after the decision or order was signed. Sec. 2001.146(a) requires copies of a motion for rehearing to be sent to all other parties upon filing.

Sec. 2001.146(i) prohibits subsequent motions for rehearing from being filed later than 20 days after the order disposing of the original motion for

rehearing was signed.

Licensing. Sec. 2001.054(c) prohibits a state agency from revoking, suspending, annulling, or withdrawing a license without providing prior notice of the facts or conduct alleged and an opportunity for the license holder to comply with the law to retain the license. Sec. 2001.054(e) provides that failure to comply with this requirement constitutes prejudice to the substantial rights of the license holder in a suit for judicial review, unless the failure to comply did not unfairly prejudice the license holder.

Observers have noted that ambiguities in current statute have created disagreements about administrative duties and procedures in contested cases, citing a need to clarify the responsibilities of parties to these cases.

DIGEST:

SB 1446 would modify various administrative procedures related to contested cases.

Notice required. The bill would allow parties to satisfy the notice requirement for statement of facts by including with the required notice an attachment that described the factual matters asserted on the complaint or petition and incorporated these matters into the notice by reference.

The bill also would amend the list of methods by which state agencies could notify parties of a state agency decision or order to include personal service, or, if agreed to by the party to be notified, email, a fax, or a method required under the state agency's rules for serving copies of pleadings.

Motion for rehearing. The bill would prohibit a period for rehearing from beginning later than 45 days after the decision or order was signed, rather than 90 days under current law. The bill also would require the affected party to include in the sworn motion for rehearing proof that:

- the party exercised due diligence in keeping the agency informed of the appropriate mailing address and electronic contact information; and
- the party and the party's attorney did not take any action that impeded or prevented receipt of notice.

The bill would provide that the timely filing of a motion for rehearing would extend the period for agency action on a motion until 100 days after the decision or order in question was signed.

The bill would specify that, using the approved notification methods, the movant would be the party responsible for sending copies of the motion to all other parties upon filing and the party filing the reply would be responsible for sending copies of the reply to all other parties. A person authorized to act for a state agency, in addition to the state agency itself as established by current law, would be allowed to grant or deny a motion to establish a revised period.

The bill would remove the 20-day time limit on filing a subsequent motion for rehearing.

Licensing. The bill would specify that prejudice to the substantial rights of the license holder in a suit for judicial review was not present if the license holder declined the opportunity to comply with the law to retain the license.

Effective date. The bill would take effect September 1, 2017, and would apply only to a contested case, administrative proceeding, order, or decision initiated or made on or after that date.

SUBJECT: Exempting estates of certain wards from guardianship fees

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

1 absent — Hernandez

SENATE VOTE: On final passage, May 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Government Code, ch. 615 allows eligible survivors of law enforcement, firefighters, and certain others who died from injuries sustained in the line of duty to receive financial assistance. The benefits apply only to eligible survivors of individuals who held positions described by sec. 615.003.

Some observers contend that in guardianship proceedings for certain military service members, law enforcement officers, fire fighters, and others who became incapacitated as a result of injuries sustained in the line of duty, the regular fees should not apply.

DIGEST: SB 1559 would prohibit a clerk of a county court from charging or collecting certain fees from the estate of a proposed ward or ward who became incapacitated as a result of injury sustained while in active service as a member of the US armed forces in a combat zone or while in the line of duty in the individual's position as described by Government Code, sec. 615.003.

Fees exempted from collection would be:

- fees for the filing of a guardianship proceeding; and
- fees for any service rendered by the court related to the administration of the guardianship.

The bill would take effect September 1, 2017, and would apply to guardianship proceedings that commenced or were pending on or after that date. A clerk of a county court would not be required to refund an exempt fee paid before September 1, 2017.

SUBJECT: Requiring public schools to report certain information through PEIMS

COMMITTEE: Public Education — favorable, without amendment

VOTE: 8 ayes — Huberty, Bernal, Bohac, Deshotel, Gooden, Koop, Meyer, VanDeaver

0 nays

3 absent — Allen, Dutton, K. King

SENATE VOTE: On final passage, May 3 — 28-3 (Burton, Hall, V. Taylor)

WITNESSES: *On House companion bill, HB 2806:*
For — Alison Reis, Texas Partnership for Out of School Time; (*Registered, but did not testify*: Andy Canales, Children at Risk; Chris Masey, Coalition of Texans with Disabilities; Jesse Ozuna, City of Houston Mayor's Office; Jim Arnold, Texas Alliance of Boys and Girls Clubs; Miranda Goodsheller, Texas Association of Business; Ellen Arnold, Texas PTA; Arsheill Monsanto, Texas State Alliance of YMCAs; James Thurston, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Kara Belew and Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code, sec. 42.006, governs the Public Education Information Management System (PEIMS), through which each school district and open-enrollment charter school is required to provide certain data, including useful, accurate, and timely information on student demographics and academic performance, personnel, and school district finances.

Education Code, sec. 33.252, governs expanded learning opportunities that public schools may provide during an extended school day, extended school year, or structured learning program outside of the regular school

day. Expanded learning opportunities may include offering rigorous coursework, mentoring, tutoring, physical activity, academic support, or educational enrichment in one or more subjects.

Concerned parties note the benefits of after-school programs but suggest there is a need for more data to demonstrate their outcomes.

DIGEST:

SB 1404 would require each school district and open-enrollment charter school to report for each campus PEIMS data regarding:

- the availability of expanded learning opportunities; and
- the number of students participating in each of the categories of expanded learning opportunities.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

A companion bill, HB 2806 by Ashby, was reported favorably by the House Public Education Committee on May 3.

SUBJECT: Designating math innovation zones and creating pay for success programs

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

SENATE VOTE: On final passage, May 4 — 31-0

WITNESSES: *On House companion bill, HB 2014:*
For — Flavio Cunha, Rice University; (*Registered, but did not testify*: Seth Rau, San Antonio ISD; Courtney Boswell, Texas Aspires; Ellen Arnold, Texas PTA; James Thurston, United Ways of Texas)

Against — None

On — Mike Morath, Texas Education Agency; (*Registered, but did not testify*: Kristi Hassett, Lewisville ISD Board of Trustees; Kara Belew and Von Byer, Texas Education Agency)

BACKGROUND: Concerns have been raised that, due to startup costs, few schools have adopted innovative programs intended to improve the math reasoning skills of Texas students. Some parties suggest that providing grants to encourage alternative math instruction would address this issue.

DIGEST: SB 1318 would allow the Commissioner of Education to designate the campus of a school district or open-enrollment charter school as a math innovation zone upon application. The commissioner could award a grant to the campus to support implementation of innovative math instruction from funds appropriated or donated for that purpose. The total amount of grants awarded during fiscal 2018-19 could not exceed $12.5 million.

A campus designated as a math innovation zone would have to implement with fidelity an innovative math instructional program approved by the commissioner to address the essential knowledge and skills of the math

curriculum. The campus also would be required to comply with objectives, metrics, and other math innovation zone requirements, and provide all data requested by the Texas Education Agency (TEA).

The commissioner could revoke the designation of a campus as a math innovation zone and suspend associated grant funding if the commissioner determined the campus had failed to implement the instructional program with fidelity or comply with requirements.

A math innovation zone would not be subject to interventions under the state accountability system for the first two years of the designation. The period that the campus was exempt from interventions would not be used to determine consecutive school years for a campus turnaround plan.

A school district or charter school could use a "pay for success" program to pay costs associated with the designation of a campus as a math innovation zone. The bill would define pay for success program as a program involving private financing under which payments were dependent on achievement of measurable outcomes. The commissioner could structure and approve pay for success programs and could accept gifts, grants, or donations from any public or private source for this purpose.

The commissioner could evaluate certain participants for pay for success programs and require chosen participants to comply with program requirements. In evaluating a potential participant, the commissioner could evaluate the availability of funds of private investors, the credentials and effectiveness of education service providers, and the credentials and independence of third-party evaluators.

A district or charter school using a pay for success program would not be subject to state procurement requirements that would otherwise apply. TEA, the commissioner, and other TEA employees would be immune from liability for actions associated with the structuring, approval, or implementation of a pay for success program.

The commissioner could adopt rules to implement the provisions of this bill.

The bill would take effect September 1, 2017.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of $12.5 million to general revenue related funds through fiscal 2018-19, and a negative impact of about $10 million in each subsequent fiscal year.

A companion bill, HB 2014 by Parker, was reported favorably by the House Public Education Committee on May 4 and placed on the General State Calendar for May 11.

SUBJECT: Regulating certain degree-granting postsecondary educational institutions

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 6 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Morrison

0 nays

3 absent — Clardy, Howard, Turner

SENATE VOTE: On final passage, April 25 — 29-2 (Huffines, V. Taylor)

WITNESSES: *On House companion bill, HB 4220:*
For — (*Registered, but did not testify:* Drew Scheberle, The Greater Austin Chamber of Commerce)

Against — None

On — (*Registered, but did not testify:* Raymund Paredes and Rex Peebles, Higher Education Coordinating Board)

BACKGROUND: Education Code, ch. 61, subch. G governs the regulation of private postsecondary educational institutions. Sec. 61.303 specifies that the provisions of the subchapter do not apply to an institution that is fully accredited by a recognized accrediting agency or other certain institutions or degree programs. An exempt institution or person may be issued a certificate of authorization to grant degrees. The Texas Higher Education Coordinating Board (THECB) provides for due process and procedures for revoking the exemption status of an institution or person.

Sec. 61.305 allows THECB to grant certain private postsecondary educational institutions a certificate of authority to grant a degree or degrees and to enroll students for courses which may be applicable toward a degree. Some have suggested that students would benefit from greater oversight by THECB over some degree-granting postsecondary educational institutions.

DIGEST:

SB 1781 would amend the Texas Higher Education Coordinating Board's (THECB) regulation of certain postsecondary educational institutions.

Exemption status. The bill would specify that Education Code, ch. 61, subch. G would not apply to an institution that was in good standing with, in addition to being fully accredited by, a recognized accrediting agency, and an exempt entity would continue in that status only if it remained in good standing.

Certificate of authorization. The bill also would specify that THECB could issue to an exempt institution or person a certificate of authorization to grant degrees. The board may adopt rules regarding a process to allow an exempt institution or person to apply for and receive a certificate of authorization.

To enable THECB to verify the conditions under which a certificate of authorization was held, the board by rule could require an exempt institution or person to report to the board on a continuing basis appropriate information in addition to documentation relating to financial requirements.

Financial resources. THECB could adopt rules that met certain requirements listed in the bill to require an exempt institution or person, an institution operating under a certificate of authority, or an institution seeking to operate under a certificate of authority to ensure that the financial resources and financial stability of the institution or person were adequate to provide education of a good quality and to fulfill the institution's or person's commitments to its enrolled students. The institution or person could be required to provide to THECB documentation of compliance with those requirements.

Academic records repository. An authorized or certified institution could be required to maintain and provide to THECB on request the academic records of enrolled or former students. An institution that failed to maintain these records or failed to protect the personally identifiable information of enrolled or former students would be assessed an administrative penalty of at least $100 but no more than $500 for each student whose record was not maintained or information was not

protected.

THECB could maintain, as a last resort, a repository for academic records from closed institutions that were exempt or authorized to operate. If a closed institution was part of a larger educational system or corporation, that system or corporation would maintain the academic records. If students of the closed institution transferred to another institution, the transfer institution would be responsible for maintaining those academic records. THECB could discontinue its maintenance of the repository if adequate funding was not provided.

Academic record would mean any information that was directly related to a student's academic efforts, intended to support the student's progress toward completing a degree program, and maintained by an institution for the purpose of sharing among academic officials. The term would not include medical records, most alumni records, human resources records, or criminal history information or other law enforcement records.

Conditions on exemption status. THECB by rule would provide procedures for placing conditions on the exemption status of an institution or person or for revoking or placing conditions on a previously issued certificate of authorization. Under these rules, THECB could revoke or place conditions on an exemption status or certificate of authorization only if the board had reasonable cause to believe that the institution or person had violated applicable law or rule.

Before revoking or placing conditions on an exemption status or certificate of authorization, the board would have to provide to the institution or person written notice of the impending action and include the grounds for that action. If action was taken, the board could reexamine the applicable institution or person at least twice annually following the date the notice was provided, until the board removed the conditions.

Effective date. The bill would take effect September 1, 2017, only if a specific appropriation for its implementation was provided in the general appropriations act of the 85th Legislature. THECB would have to adopt the rules necessary to implement the bill as soon as practicable after the effective date.

NOTES:

According to the Legislative Budget Board, the bill would result in a negative impact to general revenue related funds of $495,686 through fiscal 2019, with a similar impact in subsequent biennia, assuming the bill was implemented.

SUBJECT: Providing notice of self-help resources on court websites

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

SENATE VOTE: On final passage, April 26 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 1532:*
For — Brett Merfish, Texas Appleseed; (*Registered, but did not testify:* Trish McAllister, Texas Access to Justice Commission; Craig Hopper)

Against — None

On — David Slayton, Office of Court Administration; (*Registered, but did not testify:* Dale Propp, State Law Library)

BACKGROUND: Observers have noted that resources for people who either cannot afford legal services or do not qualify for free legal services are scarce, and that individuals representing themselves in court can have difficulty accessing consistent, reliable legal information.

DIGEST: SB 1911 would require the clerk of each court in Texas that maintained a website to post a link to the self-help resources website designated by the Office of Court Administration (OCA), in consultation with the Texas Access to Justice Commission, that contained:

- lawyer referral services;
- the name, location and website address of local legal aid offices; and
- any court-affiliated self-help center serving the county where the court was located.

The court's website also would be required to have a link to the State Law

Library's website.

The bill would require clerks to conspicuously display a sign in their offices containing the information described above. The OCA would prescribe the format for providing the information on the sign and online.

The bill would take effect September 1, 2017.

NOTES:

A companion bill, HB 1532 by Farrar, was approved by the House on May 9.

SUBJECT: Deregulating certain occupations and activities

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Frullo, Geren, Hernandez, Herrero

0 nays

3 absent — Goldman, Paddie, S. Thompson

SENATE VOTE: On final passage, April 24 — 30-0

WITNESSES: No public hearing

DIGEST: CSSB 2065 would amend regulations and licensing requirements for several Texas Department of Licensing and Regulation (TDLR) programs, including:

- statewide licensing in the vehicle protection product warrantors program;
- statewide licensing in the temporary common worker employers program;
- the for-profit legal service contracts program;
- shampoo and threading regulation in the barbering and cosmetology programs; and
- statewide vehicle booting in the vehicle towing, booting, and storage program.

Vehicle protection product warrantors program. CSSB 2065 would repeal the Vehicle Protection Product Regulatory Act and abolish the Vehicle Protection Product Warrantor Advisory Board. TDLR would have to repeal all rules relating to the regulation of vehicle protection product warrantors adopted under the act as soon as practicable. On September 1, 2017, any registration issued under the Vehicle Protection Product Regulatory Act would expire, and any pending action related to an alleged violation of the act would be dismissed. TDLR still could collect an

administrative penalty that had been assessed. The repeal of the act would not affect the validity or terms of a warranty issued or renewed before the effective date.

The bill would add provisions relating to vehicle protection products to the Deceptive Trade Practices-Consumer Protection Act. It would be a false, misleading, or deceptive act or practice for a warrantor of a vehicle protection product warranty to use, in connection with the product, a name that included the word "casualty," "surety," "insurance," "mutual," or any other word descriptive of an insurance business, including property or casualty insurance, or a surety business.

In addition, a retail seller could not require, as a condition of a retail installment transaction or a cash sale of a motor vehicle or a commercial vehicle, a buyer to purchase a vehicle protection product that was not installed on the vehicle at the time of the transaction. If a retail seller did this, it would be considered a false, misleading, or deceptive act or practice, and would be actionable in a public or private suit brought under the Deceptive Trade Practices-Consumer Protection Act.

Temporary common worker employers program. CSSB 2065 would remove TDLR licensing requirements for persons operating as a temporary common worker employer and instead would provide such employers with the authority to operate if they met the requirements for temporary common worker employers described in Labor Code, ch. 92. Any governmental subdivision could enforce ch. 92 within its boundaries.

Any pending administrative hearing would be dismissed upon the effective date of the bill, and any offense committed before that date would be governed by the law that was in effect on the date the offense was committed.

For-profit legal service contract companies. CSSB 2065 would repeal several sections and subchapters of Occupations Code, ch. 953, which provides for the regulation of for-profit legal service contract companies by TDLR. The bill would remove registration requirements, company record requirements, prepaid legal service contract programs, and financial security requirements for legal service contract companies. Any

violation of the remaining sections of Occupations Code, ch. 953 would be an actionable deceptive trade practice.

This portion of the bill would be effective on September 1, 2019. Any pending proceeding relating to a registration issued under ch. 953 would be dismissed and any registration issued would expire on that date.

Barbering and cosmetology. The bill would eliminate shampoo specialty certificates and shampoo apprentice permits and all related regulations and requirements. Shampooing and conditioning would be removed from the definitions of barbering and cosmetology.

The bill would add to the definition of cosmetology the act of removing superfluous hair from a person's body using chemicals, tweezers, or other devices or appliances of any kind or description. However, the bill would establish that threading, which involves removing unwanted hair by looping a thread around the hair, was not included in the definitions of barbering and cosmetology.

Any barbering or cosmetology shampooing specialty certificate or shampoo apprentice permit issued would expire on the effective date of the bill, and any offense or violation committed before that date would be governed by the law that was in effect on the date the offense was committed.

Motor vehicle towing, booting, and storage. CSSB 2065 would remove provisions of Occupations Code, ch. 2308 that require boot operator's licenses and boot company licenses before a person may boot a vehicle. The bill would allow a person to perform booting operations or operate a booting company without a license unless prohibited by a local authority, effective September 1, 2018.

To reflect these changes, the Towing, Storage, and Booting Advisory Board would be renamed as the Towing and Storage Advisory Board. It no longer would include a representative of a booting company or a public member, but instead would include a person who operated both a towing company and a vehicle storage facility. Further, the bill would specify that the member representing property and casualty insurers be a member

insurer of the Texas Property and Casualty Insurance Guaranty Association.

The bill also would create new booting requirements. Only one boot could be installed on a vehicle at a time. A booting company would have to remove the boot within an hour of being contacted by the vehicle owner for removal. The booting company would have to waive the fee for removal, excluding any associated parking fees, if it did not remove the boot in the prescribed timeframe.

A person exercising a statutory or contractual lien right with regard to a vehicle who installed or removed a boot or controlled, installed, or directed the installation and removal of one or more boots, or a commercial office building owner or manager who installed or removed a boot in the building's parking facility, would not be subject to local booting regulations, the booting removal timeframe, or the requirements for booting an unauthorized vehicle.

A local authority could regulate booting activities in areas where it regulated parking or traffic. These regulations would have to meet several requirements laid out in the bill, including providing a method for filing complaints.

A towing company could tow a vehicle from a university parking facility to another location on the university campus at the request of the university to facilitate a special event. This could not happen unless the proper notice was posted on the parking facility for the 72 hours preceding towing enforcement and for 48 hours after the conclusion of the event. A vehicle not claimed within 48 hours after the conclusion of the event only could be towed to another location on campus without further expense to the vehicle owner or operator. The university would have to notify the owner or operator of the person's right to a hearing.

This portion of the bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

Effective date. Unless otherwise provided, CSSB 2065 would take effect

September 1, 2017, only if a specific appropriation for its implementation was provided in the general appropriations act. To the extent of any conflict, it would prevail over another act of the 85th Legislature relating to nonsubstantive additions and corrections in enacted codes.

NOTES:

According to the Legislative Budget Board's fiscal note, the bill would have a positive impact of $12,100 through fiscal 2019. However, the bill would result in a net negative impact to general revenue of $1.2 million in 2020, increasing in subsequent years.

CSSB 2065 differs from the Senate-passed version by providing requirements for towing a vehicle on a university campus.

SUBJECT: Establishing the Texas Commission on Public School Finance

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Gooden, K. King, Koop, Meyer

0 nays

2 absent — Dutton, VanDeaver

SENATE VOTE: On final passage, May 4 — 31-0

WITNESSES: For — (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Mark Wiggins, Association of Texas Professional Educators; Drew Scheberle, Austin Chamber of Commerce; Chandra Villanueva, Center for Public Policy Priorities; Chris Masey, Coalition of Texans with Disabilities; Jodi Duron, Elgin ISD; Kristi Hassett and Kronda Thimesch, Lewisville ISD; Paige Duggins, MALDEF; Leticia Van de Putte and Ian Randolph, Pharr-San Juan-Alamo ISD; Jesus Chavez, South Texas Association of Schools; Dwight Harris and Ted Melina Raab, Texas American Federation of Teachers; Barry Haenisch, Texas Association of Community Schools; Julie Linn, Texas Association of Realtors; Bill Grusendorf and John Hubbard, Texas Association of Rural Schools; Amy Beneski, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Michelle Smith, Texas Association of School Business Officials; Michael Barba, Texas Catholic Conference of Bishops; Veronica Garcia, Texas Charter Schools Association; David Hinojosa, Texas Latino Education Coalition; Kyle Ward, Texas PTA; Christy Rome, Texas School Coalition; Paul Colbert; Kristi Morrison; Columba Wilson)

Against — None

On — (*Registered, but did not testify*: Kara Belew, Leonardo Lopez, and Al McKenzie, Texas Education Agency)

DIGEST:

SB 2144 would establish the Texas Commission on Public School Finance to develop and make recommendations for improvements to the current public school finance system or for new methods of financing public schools.

Commission membership. The commission would be composed of 15 members:

- four members appointed by the governor;
- three members appointed by the lieutenant governor;
- three members appointed by the House speaker;
- the chair of the Senate Education Committee, or a representative designated by the chair;
- the chair of the Senate Finance Committee, or a representative designated by the chair;
- the chair of the House Public Education Committee, or a representative designated by the chair;
- the chair of the House Appropriations Committee, or a representative designated by the chair; and
- a member of the State Board of Education, as designated by the chair of that board.

The governor would designate the presiding officer of the commission. In making appointments, the governor, lieutenant governor, and House speaker would be required to coordinate to ensure that the membership of the commission reflects, to the extent possible, the ethnic diversity of the state and included at least one of each of the following representatives:

- an administrator in the public school system or an elected member of the board of trustees of a school district;
- a member of the business community; and
- a member of the civic community.

Commission members would not be entitled to compensation for their service, but they would be entitled to reimbursement for actual and necessary expenses incurred in performing commission duties.

Texas Education Agency (TEA) staff would be required to provide administrative support for the commission. TEA would receive funding for the commission's administrative and operational expenses by appropriation.

Recommendations. The commission would develop recommendations to address issues related to the public school finance system, including:

- the purpose of the public school finance system and the relationship between state and local funding in that system;
- the appropriate levels of local maintenance and operations and interest and sinking fund tax effort necessary to implement a public school finance system that complies with the requirements under the Texas Constitution; and
- policy changes to the public school finance system necessary to adjust for student demographics and the geographic diversity of Texas.

The commission could establish one or more working groups composed of not more than five members to study, discuss, and address specific policy issues and recommendations to refer to the commission for consideration.

Report. By December 31, 2018, the commission would be required to prepare and deliver a report to the governor and the Legislature that recommended statutory changes to improve the public school finance system, including any funding adjustments to account for student demographics.

Public meetings and information. The commission could hold public meetings as needed to fulfill its duties under the bill and would be subject to open meetings and public information requirements.

The commission would be abolished January 8, 2019.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Allowing the SAT or ACT to serve as a secondary exit-level assessment

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Huberty, Allen, Bohac, Deshotel, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

2 absent — Bernal, Dutton

SENATE VOTE: On final passage, May 4 — 31-0

WITNESSES: For — (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Drew Scheberle, Austin Chamber of Commerce; Kristi Hassett and Kronda Thimesch, Lewisville ISD; Jesus Chavez, South Texas Association of Schools; Barry Haenisch, Texas Association of Community Schools; Grover Campbell, Texas Association of School Boards; Paige Williams, Texas Classroom Teachers Association; Jamaica Chapple)

Against — (*Registered, but did not testify*: Grace Chimene, League of Women Voters of Texas; Dee Carney, Texas School Alliance; Portia Bosse, Texas State Teachers Association)

On — Theresa Trevino, TAMSA; Von Byer, Texas Education Agency; David Hinojosa, TLEC; (*Registered, but did not testify*: Kim Cook, TAMSA; Monica Martinez, Texas Education Agency)

BACKGROUND: In 2007, the 80th Legislature enacted SB 1031 by Shapiro, which required the Texas Assessment of Knowledge and Skills (TAKS) to be replaced in grades 9 through 12 with a series of end-of-course assessments, beginning with the students entering grade 9 in the 2011-12 school year.

A certain number of older students who have not met the exit-level assessment requirements to receive a high school diploma are still held to TAKS graduation standards, rather than end-of-course assessment

standards.

DIGEST:

SB 1005 would require students who repeated grade 9 in the 2011-12 school year, as well as those who entered grade 10 or higher that year, to take the exit-level Texas Assessment of Knowledge and Skills (TAKS). This would apply only to students still seeking to meet the exit-level assessment requirements for a high school diploma.

The bill also would allow students to whom the bill applies to meet the exit-level assessment requirement by demonstrating satisfactory performance on either the SAT or ACT at a level equivalent to satisfactory exit-level TAKS performance. The Commissioner of Education would be required to establish satisfactory performance levels for the SAT and ACT equivalent in rigor to the level required for satisfactory performance on the TAKS. The commissioner would not be required to administer TAKS after September 1, 2017.

The bill would take effect immediately if final passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

In its fiscal note, the Legislative Budget Board estimates SB 1005 would have a positive impact of $4 million to the Foundation School Fund through fiscal 2018-19 due to savings involved with the elimination of TAKS.

SUBJECT: Providing protections for physician assistants, changing requirements

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Price, Sheffield, Burkett, Coleman, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

2 absent — Arévalo, Collier

SENATE VOTE: On final passage, May 10 — 30-0

WITNESSES: None

BACKGROUND: Occupations Code, ch. 204, establishes the Physician Assistant Licensing Act. Some suggest existing law provides insufficient protections for physician assistants who refuse to engage in conduct that would constitute grounds for reporting the physician assistant to the Texas Physician Assistant Board or violate state law or rule.

DIGEST: SB 1625 would provide certain protections and requirements for physician assistants, revise physician assistant licensing requirements, require fingerprint-based background checks for physician assistants, and revise Texas Physician Assistant Board member training and meeting requirements.

Physician assistant protections. The bill would provide protections against suspension, termination, discipline, discrimination, or retaliation for physician assistants who refused to engage in acts or omissions that would violate a rule related to their license or the Physician Assistant Licensing Act, if the physician assistant met certain requirements listed in the bill. The bill would authorize a physician assistant to refuse to engage in such acts or omissions and would provide a process for medical peer review of that conduct.

The bill would prohibit a physician assistant's rights relating to protection

for refusal to engage in certain conduct from being nullified by a contract. An appropriate licensing agency could take action against a person who violated provisions in the bill related to physician assistant protections. The bill's provisions would apply only to an act or omission that took place on or after September 1, 2017.

Licensing requirements. The bill would remove language requiring a physician assistant license applicant to be "of good moral character" and would make licenses valid for one or two years, as determined by board rule.

Fingerprint-based background checks. The bill would require physician assistant license applicants to undergo fingerprint-based background checks to have a license issued or renewed. The bill would prohibit the Texas Physician Assistant Board from issuing a license to a person who had not submitted fingerprints to the board or to the Department of Public Safety, as applicable, for the background check. The bill would not require a license holder to submit fingerprints for a license renewal if the person had previously submitted fingerprints when the license was first issued or as part of a prior renewal.

The board could administratively suspend or refuse to renew the license for a person who did not submit fingerprints for a license renewal. The board also could refuse to renew a license if the license holder had violated a board order. By September 1, 2019, the board would be required to obtain criminal history record information on each person who held a physician assistant license on September 1, 2017, and did not undergo a fingerprint-based background check as part of their initial license application. The board could suspend the license of a license holder who did not provide criminal history record information by that date.

Board member training. The bill would revise training requirements for Texas Physician Assistant Board members by adding training on:

- law governing board operations;
- the scope of and limitations on the board's rulemaking authority;
- laws relating to disclosing conflicts of interest; and

- other laws applicable to members of the board in performing their duties.

The executive director of the Texas Medical Board would be required to create and distribute a training manual with Texas Physician Assistant Board member training information as modified by the bill. Texas Physician Assistant Board members would be required to sign that they had received the manuals. After December 1, 2017, a board member could not vote, deliberate, or be counted as a member until he or she completed the additional training.

Board meetings. The bill would allow the Texas Physician Assistant Board to hold an executive session to conduct deliberations about a license application or disciplinary action, and would require the board to vote and announce its decision in open session. In an informal meeting for a contested licensing case, the bill would require at least one of the panelists to be a licensed physician assistant.

Effective date. The bill would take effect September 1, 2017.

NOTES: A companion bill, HB 2143 by Cortez, was reported favorably by the House Public Health Committee on May 2 and placed on the General State Calendar for May 11.

SUBJECT: Information on services for women veterans in certain agency applications

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 6 ayes — Gutierrez, Blanco, Arévalo, Flynn, Lambert, Wilson

1 nay — Cain

SENATE VOTE: On final passage, May 1 — 29-2 (Burton, V. Taylor)

WITNESSES: No public hearing

BACKGROUND: Government Code, sec. 434.102 requires the Department of Information Resources to establish and maintain a veterans website that allows veterans to access information on and electronically file for state and federal veterans benefits.

Observers contend the state should improve the manner by which it identifies women veterans and informs them about the services and benefits for which they may be eligible.

DIGEST: SB 1677 would require an agency in the executive branch of state government that served or assisted adult women to include in each application for a program, a service, or assistance a space to indicate whether an applicant was a veteran and model language informing the applicant that she could be entitled to additional services because of her veteran status. An agency would include a health and human services agency that provided programs and assistance such as Temporary Assistance for Needy Families, the women's health program, Medicaid, and housing assistance.

Each applicable agency would have to modify its application as necessary to implement the bill by March 1, 2018. By December 1, 2017, the Texas Veterans Commission would be required to develop the model language required in an application and include in the language a link to the veterans website established under Government Code, sec. 434.102. The model language would be posted on the commission's website.

The bill would take effect September 1, 2017.